

A special meeting of the Carson City Board of Supervisors, Douglas and Lyon County Commissioners was held on Thursday, April 13, 1989, at the Legislative Building, Government Affairs Assembly Room No. 214, 401 South Carson Street, Carson City, Nevada, beginning at 6:30 p.m.

PRESENT: Carson City: Mayor Marv Teixeira, Supervisors Ron Swirczek, Tom Feticc, Marilee Chirila, and Kay Bennett

Douglas County: Chairperson Michael E. Fischer, Barbara Cook, Bruce Kanoff, David Pumphrey

Lyon County: Chairperson Ken Harvey, Roland Adams, Don Cummings, and Maryanne Hamer

Carson Water Subconservancy District: Chairperson Andy Aldax, Ed Sarman, Art Settelmeyer, Gordan Fricke, Project Director Ira Rackley, and Legal Counsel Don Springmeyer

STAFF PRESENT: Carson City: City Manager L. H. Hamilton, Public Works Director Dan O'Brien, Chief Deputy District Attorney Charles P. Cockerill, Water Engineer Dorothy Timian-Palmer, and Recording Secretary Katherine McLaughlin

Douglas County: County Manager Bruce Adams and Water Engineer Rich Drew

Lyon County: District Attorney William Rogers, Deputy District Attorney Zane Miles, and Administrative Assistant Marianne Rogers

(S.B.O.S. 4/13/89 Tape 1-001 Side A)

At 6:30 p.m. Commissioner Fischer called the meeting to order. By mutual consent Commissioner Fischer was selected Chairperson. Roll call was taken and a quorum of the Board/Commissions were present although Commissioners Kathy Jensen and Robert Pruett were absent. Roll call was also taken for the Carson Water Subconservancy District. A quorum of the District was also present.

DISCUSSION AND POSSIBLE ACTION CONCERNING ASSEMBLY BILL NO. 153 - CREATES CARSON RIVER BASIN WATER DISTRICT - CONSIDERATION OF THE BILL, OPTIONS CONCERNING ORGANIZATION, RESPONSIBILITIES, SERVICES, AND OTHER RELATED MATTERS (1-033-A) - Discussion ensued among the Board/Commissions, Mr. Rackley, and Mr. Springmeyer on each entities concerns about the Bill, reasons for that section in the Bill, and compromises or modifications addressing those concerns.

Lyon County felt that the District should compose of five members appointed by Douglas County, and two members each from Carson City and Lyon County. Douglas County supported five from Douglas, one each from Carson City and Lyon. As this was a major issue, Chairperson Fischer ruled that discussion would be held on this item until the other issues were addressed. In order to avoid confusion, the latest draft of the bill, numbered 10-

3789, was copied and distributed to the Commissioners/Supervisors. (None to the Clerk.)

Mr. Rackley outlined what he felt would be the District's functions for the first 18 months. His comments stressed California's desire to designate the river wild and scenic and the timetable it had established for Nevada to withdraw that portion necessary for a reservoir. The ten cent maximum ad valorem tax collected for the District could only be used for administration, planning, operation, and engineering. Projects or water purchases could not be fund with the ad valorem tax. Projects could only be undertaken after an entity within the District petitions the District and an agreement covering the scope and costs of the project has been reached. The entity would then adopt an ordinance spelling out the water to be provided, the size of the project, its location, and funding. Clarification noted that the ten cent ad valorem rate would collect approximately \$500,000 from Carson City, \$347,000 from Douglas County, and \$102,000 from Lyon County. It may take ten years before a project is completed and water is available. Projections indicate that when Carson City reaches it maximum buildout it will need an additional 7 or 8,000 acre feet more than it currently has. Comments stressed that the District could not force an entity to join or accept any agreements. Douglas County did not need the District other than to address "political" problems as it had adequate water for its growth. Lyon County did not need water at this time, however, in 10 to 20 years, depending on its rate of growth, may need some. Comments indicated that the District's purpose was to address the "political" problems from other areas and provide for the future.

Discussion resumed on the Bill as drafted. Supervisor Swirczek began with Section 5 and requested clarification regarding the use of the ad valorem tax to prohibit expenditures for the operation and maintenance of failed water companies. Mr. Rackley and Mr. Springmeyer stressed that retail cost of the water for the failed water companies, which were called 318 Districts, would include any operation and maintenance required. The Commissioners/Supervisors agreed that this clarification should be added to the Bill.

Mr. Miles explained Lyon County's concern that the "one man, one vote" issue be settled through legal procedures prior to creation of the District. Douglas and Carson City expressed willingness to support obtaining the court determination on this position prior to creation of the District.

Lyon County's concern that the representatives to the District, including its first Board, be appointed by the Commission/Board was acceptable by Douglas, Carson City, and the Subconservancy.

Mr. Miles then explained Lyon County's position on the simple majority of the Board and composition as a 5-2-2 Board.

Supervisor Swirczek Carson City's concern that the Bill include language stating the District would be responsible for major upstream storage, ad valorem usage--which had been resolved, the Carson River Management Program, responsibility for the costs incurred bailing out failed water companies and the rate structure--which had been resolved, Public Service Commission participation in the rate structure, that the program is voluntary, that a legislative oversight committee would review the activities after two or four years to determine whether the District was accomplishing its goals, and that the Board's composition with the foregoing safe guards was not a major issue. Therefore, the Carson City had voted unanimously to support the concept of a 5-1-1 Board. District responsibility for flood control and the dam are under Section 541.

Douglas County was concerned about condemnation rights. Mr. Rackley explained that it had been added so that easements and right-of-ways, etc., could be obtained, however, the power to condemn water rights would be eliminated. Developers could only be required to obtain will serve letters if the County adopts an ordinance so stipulating. Mr. Springmeyer explained that the intent is to provide water in areas where the County wants it. Discussion clearly indicated the need for resource monitoring for both development purposes and the State Water Engineer requirements. The Carson River Management Program contains a detailed plan for monitoring the resources from the District's inception. The original boundaries were changed to include Carson City's urban

district. Other areas could be included if a contract is reached between the District and the requesting entity. Such contracts would be done on request and voluntarily. All costs for expanding the infrastructure to include such areas would be in the contract. Emphasis stressed that the District was not being formed to acquire water companies, however, they could voluntarily contract with the District for service. Reasons for not restricting the contract area were discussed. (2-001-A) As currently proposed it would take a majority of the Board to contract with an entity outside of the Board's boundaries. Supervisor Bennett felt that restrictions should be included in the Bill to prohibit exportation of water from the tri-County area. The effect such a prohibition would have on Carson City's Hobart/Marlette agreement and Lake Tahoe resource were noted. It was felt that the State Planning Agency's role in the District would be more of a procedural verification of County planning and management and as a centralized site where resource data would be compiled. Section 7B required compliance with the Clean Water Act.

Douglas County felt that the Assessor should not be required to collect user fees but should collect the ad valorem tax. Any expenses incurred in this collection process should be reimbursed by the District. This proposal was supported by Carson City and Lyon. Sections 6.1 and 2 had been eliminated from the last draft. They had granted final approval power over annexation to the District. If the District acquires the operation of a failing water company, all costs incurred would be passed on to the users. This Section is to include the operational and maintenance costs as well. Discussion pointed out that acquisition of failing water companies was not mandatory as all agreements are voluntary. Douglas County proposed requiring expansions, including oversizing for projected growth, be paid by the initiating entity. Consensus agreed so long as that originating entity is reimbursed as other entities tie into the system. The contract and/or ordinance could address this commitment. Lyon County water districts were explained.

Clarification noted that although the entire District would be included in the ad valorem rate, the entire area would not be required to participate in the District as participation is on a voluntary basis. Advantages of using the District were cited. The District would not change the Federal Alpine Decree.

Will serve requirements could only be made by petition to the District and upon adoption of an ordinance by the requesting entity.

It was felt that the District would not encounter a problem obtaining water rights. Ranch land irrigation would not be affected by the District's procurement of water rights. The proposed Management Plan would allow attrition to change the demand on the water rights until the dam is constructed at which time the District could utilize those rights without drying up the Valley.

Discussion ensued concerning the Board's composition. Compositions of 5-1-1, 5-2-2, and 3-2-2 were discussed as well as simple and super majorities. Discussion included the local political problems, e.g., the ten cent tax for unnecessary services, water rights and their ownership.

BREAK: At 8 p.m. a ten minute recess was taken. When the meeting reconvened at 8:10 p.m. a quorum of all the Commissions/Board was present as noted.

Commissioner Harvey proposed Lyon County's acceptance of a 5-1-1 with a requirement that a six member majority be required to conduct business and constitute a quorum. Discussion noted the difficulty obtaining a quorum and majority of six. If, at the time of the legislative oversight committee, it appears this is an unreasonable requirement, it could be changed.

Lyon County requested a stipulation be added to the Bill prohibiting the use of ad valorem taxes to correct a revenue bond default. This would require accurate cost and revenue projections. Discussion included the reasons for requiring the bonds to be revenue backed, interest rates for such bonds, State bond bank requirements including

cost evaluations, the six majority requirement, and that the State would be ultimately responsible for such failures as the State bond bank would be utilized.

Clarification indicated that the first District Board would be appointed by the respective Commission/Board, that a majority vote would be required to provide service outside the District's/Counties' boundaries, and that any service area restrictions would impact Carson City's agreement with the State on the Hobart/Marlette system.

Clarification also indicated that the District had agreed to initiate the legal steps necessary to resolve the "one man, one vote" issue.

Commissioner Pumphrey distributed copies of a letter from Jim Vasey to Commissioner Fischer soliciting support for legislation controlling the State Engineer's ability to transfer water rights in one basin to an entity in another. (A copy was not given to the Clerk.) As this item was not agendaized, no further discussion occurred.

Discussion then noted that the legislative session was fast drawing to a close and the lack of time to address new concerns. Therefore, a ten minute recess was called.

BREAK: At 8:30 a ten minute recess was taken. When the meeting reconvened at 8:40 p.m. a quorum of the Commissions/Board was present as noted.

(3-001-A) Lyon County requested that language be included in the Bill indicating the purpose of the District as being to protect and maintain the water rights within the tri-County system. This could affect the Hobart/Marlette agreement, however, inclusion of the Kennedy, Jenks, Chilton study in the Bill would clearly delineate the purpose of the District. Section 6.1 was felt to address the purpose of the District. At this time the bill does not include a prohibition against servicing areas outside the District. Any service in or out of the District would have to be approved by a super majority of the Board.

Lyon County expressed its feeling that the bond commitments should be addressed by a majority vote of each of the Commissions/Board. As the District could not seek bonding until a contract had been signed requesting service, it was felt that this concern had been addressed. The ten cent ad valorem tax could not be used for projects, including the dam. Discussion reiterated the State bond bank requirements and State responsibility if default occurs. The Public Utility Commission role in establishing the rates was noted. Reasons for using the State bond bank were reiterated.

Discussion ensued on the need to present a united front in the legislature, the funding generated by the Counties, and the need to have the revised bill as soon as possible so that another meeting could be held if a concern arises.

Mr. Springmeyer requested clarification on the ad valorem and bonding language. Consensus of the Board/Commissions was that the Bill was not to include language prohibiting the use of ad valorem tax monies for backing of the faith and revenue bonds.

There being no other business for discussion at this meeting, Chairperson Fischer adjourned the meeting at 8:50 p.m.

The Minutes of the Special April 13, 1989, Joint Meeting of the Carson City Board of Supervisors, Douglas and Lyon County Commissioners

ARE SO APPROVED ON _____April 20_____, 1989.

/s/ _____
Marv Teixeira, Mayor

ATTEST:

/s/ _____
Alan Glover, Clerk-Recorder